

Commercial Cannabis Business Licensing Program Regulations

Initial Study/Negative Declaration

Executive Summary

Bureau of Cannabis Control

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EXECUTIVE SUMMARY

The Medical Cannabis Regulation and Safety Act (MCRSA) was established through a series of bills passed by the California State Legislature in 2015 and 2016. MCRSA established the Bureau of Medical Cannabis Regulation, now the Bureau of Cannabis Control (Bureau) under the California Department of Consumer Affairs and created California's first framework for the licensing, regulation, and enforcement of commercial medicinal cannabis activity.

The Control, Regulate and Tax Adult Use of Marijuana Act (AUMA) was established with the passage of Proposition 64, a voter initiative, in November 2016. AUMA legalized the nonmedicinal adult use of cannabis and established California's framework for the licensing, regulation, and enforcement of commercial nonmedicinal cannabis activity.

In June 2017, the California State Legislature passed a budget trailer bill, Senate Bill 94, that integrated MCRSA with AUMA to create the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) contained in division 10 of the Business and Professions Code (§26000 et seq.). Under MAUCRSA, a single regulatory system will govern the cannabis industry in California. The Bureau is charged with the licensing, regulation, and enforcement of various commercial cannabis businesses, including distributors, retailers, testing laboratories, and microbusinesses and will begin issuing licenses on January 1, 2018.

Under MAUCRSA, the California Department of Food and Agriculture (CDFA) is responsible for issuing licenses for commercial cannabis cultivation and the California Department of Public Health (CDPH) has licensing authority for commercial cannabis manufacturers.

The Bureau published proposed regulations for the licensing of medicinal cannabis distributors, transporters, dispensaries, and testing laboratories under California Code of Regulations title 16, division 42, pursuant to MCRSA in April and May, 2017. The passage of MAUCRSA in June 2017 repealed MCRSA, and Bureau has decided not to move forward with its proposed MCRSA regulations. The Bureau intends to adopt emergency regulations under the Administrative Procedure Act (APA) for medicinal and adult-use commercial cannabis business licensing under MAUCRSA. Emergency regulations have not yet been published. However, a summary of the anticipated regulations is provided in Chapter 2, *Proposed Program Description*. The full text of MAUCRSA is provided as **Appendix A**.

The Bureau has prepared this Initial Study/Negative Declaration (IS/ND) to provide the public, responsible agencies, and trustee agencies with information about the potential environmental effects of licensing various types of commercial cannabis businesses in California, including distributors, retailers, testing laboratories, and microbusinesses. The Bureau's adoption and implementation of regulations for these licenses, referred to herein as the commercial cannabis business licensing program, is the Proposed Program that is evaluated in this IS/ND.

The Proposed Program must comply with MAUCRSA. The purpose of the Proposed Program is to ensure that the distribution, retail sale, laboratory testing, and microbusiness activities of commercial cannabis businesses would be performed in a manner that avoids significant

adverse impacts on the environment, cannabis cultivation workers, and the general public from individual and cumulative adverse effects of these operations and complies with all applicable State and local laws.

This IS/ND has been prepared in compliance with the California Environmental Quality Act, (CEQA), contained in division 13 of the Public Resources Code (§21000 et seq.) and the *Guidelines for the Implementation of CEQA* (Cal. Code Regs., tit. 14, §15000 et seq.; hereafter Guidelines). The primary purposes of this IS/ND are to provide a comprehensive and transparent CEQA analysis for the adoption of regulations and implementation of licensing activities conducted pursuant to the regulations.

ES.1 Overview of the Proposed Program

Goals and Objectives

The overall goal of the Proposed Program is to establish a regulatory licensing and enforcement program for commercial cannabis activities. The Proposed Program will ensure that medicinal and adult-use commercial cannabis activities are performed in a manner that avoids significant adverse impacts on the environment, cannabis industry workers, and the general public from the individual and cumulative effects of these commercial cannabis activities, and fully complies with all applicable laws, including MAUCRSA.

In meeting these goals, the Proposed Program has the following objectives:

- Create a comprehensive and coherent regulatory framework for an established industry that has not been regulated by the state;
- Establish minimum licensing requirements for commercial cannabis distributors, retailers, testing laboratories, and microbusinesses;
- Ensure that medicinal and adult-use cannabis is tested for quality, including the presence and amounts of mold, contaminants, and pesticides, prior to retail sale;
- Prescribe standards for the reporting of the movement of cannabis and cannabis products throughout the distribution chain (a “track and trace” system) and information related to the movement of cannabis and cannabis products for the different stages of commercial cannabis activity, including, but not limited to distribution, retail sale, laboratory testing, and microbusinesses; and
- Ensure a regulatory structure that prevents access to cannabis by persons without a physician’s recommendation or who are under 21 years of age; protects public safety, public health, and the environment; and maintains local control.

Program Area and License Eligibility

The Proposed Program would occur in various locations within the state of California at licensed commercial cannabis distributors, retailers, testing laboratories, and microbusinesses. The Proposed Program outlines specific requirements for each applicant or owner for license eligibility, including, but not limited to, the following:

- Provide a description of operating procedures applicable to the applicant's operations, including cultivation, extractions and infusion methods, transportation process, inventory procedures, quality control procedures, and security protocols;
- Provide evidence that the proposed premises where the commercial cannabis activity will occur is located beyond a specified radius from a school, day care center, or youth center;
- For microbusiness license applicants that intend to cultivate cannabis, provide a copy of a valid Fish and Game Code section 1602 Lake or Streambed Alteration Agreement or written verification from the California Department of Fish and Wildlife that an agreement is not required; information regarding the water source for the operation; and, if applicable, approval of water diversion and water rights.
- For applicants with 20 or more employees, provide a statement that the applicant will enter into, or demonstrate that it has already entered into, and abide(s) by the terms of a labor peace agreement;
- Provide evidence of the legal right to occupy and use the proposed location and provide a statement from the landowner (or that landowner's agent) of real property where the commercial cannabis activity will occur, as proof that the landowner has acknowledged and consented to permit commercial cannabis activities to be conducted on the property;
- Provide a complete, detailed diagram of the proposed premises;
- Provide documentation regarding any applicable environmental review pursuant to CEQA;
- Provide a list of all persons with a financial interest in the applicant business;
- For each owner, provide a list of convictions and evidence of rehabilitation for each substantially related criminal conviction; Electronically submit to the California Department of Justice fingerprint images and related information for the purpose of obtaining information as to the existence and content of a record of State or federal convictions and arrests;
- Provide the applicant's valid seller's permit number issued by the California Department of Tax and Fee Administration;
- Provide proof of a bond in the amount to be determined by the Bureau to cover the costs of destruction of cannabis or cannabis products if necessitated by a violation of licensing requirements;

Additionally, as part of the Proposed Program, the Bureau would require applicants to attest, under penalty of perjury, that the information in the application is complete, true, and accurate.

Summary of the Proposed Program

The Bureau is responsible for developing regulations for the licensing of various types of commercial cannabis businesses in California, including distributors, retailers, testing laboratories, and microbusinesses. The Bureau will develop regulations and issue licenses to commercial medicinal and adult-use cannabis businesses.

The Bureau's regulations will detail a range of licensee requirements and other related information pertinent to the program. The anticipated contents of the regulations are summarized in Chapter 2. All applicants will be required to adhere to these regulations to receive a license to distribute, sell, or test cannabis goods or operate a commercial cannabis microbusiness. Commercial cannabis microbusiness applicants that intend to manufacture cannabis products or cultivate cannabis as part of their microbusiness activities must be able to demonstrate compliance with all requirements for manufacturing and/or cultivation license types, including all applicable regulations.

The Bureau's adoption and implementation of the aforementioned regulations is the Proposed Program that is considered in this IS/ND.

Nature of the Discretionary Action Considered in the IS/ND

The Bureau's anticipated Proposed Program regulations are described in this IS/ND in Chapter 2, *Proposed Program Description*. The related activities as they would be implemented in the future if the Bureau adopts the regulations following completion of this CEQA process, are identified in this IS/ND in Chapter 3, *Proposed Program Activities*.

Adoption of regulations constitutes a discretionary project subject to CEQA. (Guidelines §15378.) The Bureau will use the analyses presented in this IS/ND, public and regulatory agency comments received on the IS/ND, and the entire administrative record to evaluate the Proposed Program's environmental impacts as well as to inform and support the Bureau's further modifications to, approval of, or denial of the Proposed Program.

One of the Bureau's intentions in preparing this IS/ND is to minimize the amount of duplicate information and evaluation that may be required in the future by dealing with the impacts of the Proposed Program as comprehensively as possible in this IS/ND, including cumulative impacts, considering regional issues and similar overarching issues. Substantial efforts have been made to provide as specific an analysis as possible. If the level of detail provided in this IS/ND does not allow for the sufficient evaluation of specific environmental issues without being unduly speculative, additional analysis may be required during future discretionary approvals by the Bureau, or as part of the approval process for other State or local government agencies with discretion over the activity. However, if, for purposes of future discretionary approvals, this IS/ND adequately captures the specific environmental issues associated with the Proposed Program, no additional CEQA environmental review is necessary.

It is the Bureau's intent to follow the guidance provided in Guidelines section 15162 determining whether additional CEQA compliance may be needed and, if so, what type of additional CEQA compliance is needed.

In addition, if another lead agency has prepared a CEQA document that addresses any significant impacts that were not disclosed in this IS/ND, the Bureau may choose to act as a responsible agency following the process outlined in Guidelines section 15096.

ES.2 Public Involvement Process

CEQA mandates one period during the IS/ND process when public and agency comments on the environmental analysis of the Proposed Program are to be solicited: during the public review period for the IS/ND. In addition, CEQA and the Guidelines also allow lead agencies to hold public meetings or hearings to obtain comments and review both the draft and final versions of an IS/ND. Brief descriptions of these milestones are provided below, as they apply to this document.

Public Review of the IS/ND

The Bureau will issue a Notice of Intent (NOI) to adopt a negative declaration to provide agencies and the public with formal notification that this IS/ND is available for review. The NOI will be sent to all responsible and trustee agencies, any person or organization requesting a copy, and all 58 county clerks' offices for posting. A legal notice will also be published in a number of general-circulation newspapers. The Bureau also will submit the NOI and a Notice of Completion (NOC) to the State Clearinghouse.

Publication of the NOI will initiate a 30-day public review period, during which the Bureau will receive and collate public and agency comments on the Proposed Program and the IS/ND. The Bureau will host public meetings after release of the IS/ND. The purpose of public circulation and the public meetings is to provide public agencies, other stakeholders, and interested individuals with opportunities to comment on the contents of the IS/ND.

Consideration and Adoption of this IS/ND

The Bureau, as the CEQA Lead Agency, will consider substantive comments on the IS/ND before approving the Proposed Program. If the Proposed Program is approved, the Notice of Determination will be filed with the California Governor's Office of Planning and Research (OPR) and at the offices of the relevant county clerks. (Guidelines §15093[c].)

ES.4 Overview of Environmental Topics Evaluated in the IS/ND

Table ES-1, at the end of this Executive Summary, presents an overview of key impacts and conclusions from the resource topics evaluated in the IS/ND. The following environmental areas potentially would be affected by the Proposed Program:

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| ▪ Aesthetics | ▪ Hazards, Hazardous Materials, and Human Health |
| ▪ Air Quality | ▪ Noise |
| ▪ Biological Resources | ▪ Public Services |
| ▪ Energy Use and Greenhouse Gas (GHG) Emissions | ▪ Transportation and Traffic |

The analysis of these environmental topics includes a consideration of the impacts of cultivation and manufacturing as a component of microbusiness activities. While the Bureau is responsible for issuing licenses for microbusinesses, applicants will need to demonstrate compliance with CDFA's cultivation regulations and CDPH's manufacturing regulations. CDFA has published the *CalCannabis Cultivation Licensing Program Draft Program Environmental Impact Report* (CDFA Draft PEIR) to examine the impacts of its cultivation licensing program. As a result, this IS/ND refers to and summarizes throughout the document to the findings of the CDFA Draft PEIR in its examination of the impacts of cultivation as a component of microbusinesses.

The following environmental topics (described in Section 4.0.11) were considered and dismissed from further analysis in this IS/ND, either because there was no potential for the Proposed Program to have a significant impact or because the CDFA Draft PEIR analysis adequately covered the issue:

- Agriculture and Forestry Resources
- Cultural and Paleontological Resources
- Geology, Soils, and Seismicity
- Hydrology and Water Quality
- Land Use and Planning
- Mineral Resources
- Population and Housing
- Recreation
- Tribal Cultural Resources
- Utilities and Service Systems

ES.5 Intended Uses of this IS/ND

The Bureau will use the IS/ND to inform its decision whether to adopt and implement the Proposed Program, including the issuance of individual licenses for activities in compliance with the regulations.

In addition, this IS/ND may be used by other agencies to support their issuance of permits or approvals in relation to cannabis business activities or other aspects of cannabis licensing. These agencies may include, but are not limited to, the following:

- Cities and counties
- California Department of Food and Agriculture
- California Department of Public Health
- California Department of Pesticide Regulation
- California State Water Resources Control Board
- California Department of Fish and Wildlife
- Regional Water Quality Control Boards (all regions)
- California State Office of Historic Preservation
- California Air Resources Board

- California Department of Forestry and Fire Protection
- California Department of Industrial Relations, Division of Occupational Safety and Health
- California State Lands Commission
- California Coastal Commission
- Bay Conservation and Development Commission
- California Environmental Protection Agency

The purpose of this IS/ND is to address environmental impacts of the Proposed Program, not to make determinations regarding legal issues that may or may not be within the jurisdiction of the Bureau. As such, the IS/ND does not attempt to define the jurisdictions and related permitting or regulatory authority of other agencies that may have oversight over commercial cannabis activities.

ES.6 Submittal of Comments

The purpose of circulating the IS/ND is to provide agencies and interested individuals with opportunities to comment on or express concerns regarding its contents and analysis. During the public review period, the Bureau will be holding public meetings, which will have the same purpose. Specific dates, times, and locations for these meetings will be provided in the NOI, on the Bureau's website (www.bcc.ca.gov), via the Bureau's electronic mailing list (you may add yourself to the electronic mailing list at www.bcc.ca.gov), and in newspaper notices.

For those interested, written comments or questions concerning this IS/ND should be submitted, preferably via email in Microsoft Word format, prior to the close of the public review period and directed to the following:

Attention: Sara Gardner
 Attorney III
 Bureau of Cannabis Control
 1625 North Market Boulevard, Suite S-202
 Fax: (916) 574-8676
 Email: BCC.CEQAcomments@dca.ca.gov

This IS/ND is available for review at the Bureau's website: www.bcc.ca.gov. In addition, hard copies can be reviewed at the Bureau's office in Sacramento, California. To arrange to view documents during business hours, call (916) 574-7595. This IS/ND also can be reviewed electronically at libraries throughout the state that are serving as document repositories; a full list of locations is provided on the Bureau's website.

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1 **Table ES-1. Summary of Impacts and Mitigation**

Impact	Significance Before Mitigation	Mitigation Measures	Significance After Mitigation
<i>Aesthetics</i>			
AES-1: Result in a substantial adverse effect on a scenic vista, scenic resource, or State-designated scenic highway, and/or the existing visual character or quality of a site and its surroundings.	LTS	None required	LTS
AES-2: Create a new source of substantial light or glare that would adversely affect daytime or nighttime views.	LTS	None required	LTS
<i>Air Quality</i>			
AQ-1: Conflict with or obstruct implementation of an applicable air quality plan, and/or violate any air quality standard or contribute substantially to an existing or projected air quality violation.	LTS	None required	LTS
AQ-2: Expose sensitive receptors to substantial pollutant concentrations as a result of the proposed program.	LTS	None required	LTS
AQ-3: Create objectionable odors affecting a substantial number of people as a result of the proposed program.	LTS	None required	LTS
AQ-4: Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is in nonattainment under an applicable federal or state ambient air quality standard.	LTS	None required	LTS
<i>Biological Resources</i>			
BIO-1: Cause adverse effects on aquatic and semi-aquatic special-status species.	LTS	None required	LTS
BIO-2: Cause substantial adverse effects on special-status plant species.	LTS	None required	LTS
BIO-3: Cause substantial adverse effects on wildlife due to increased light, including special-status terrestrial wildlife species.	LTS	None required	LTS

Impact	Significance Before Mitigation	Mitigation Measures	Significance After Mitigation
BIO-4: Cause substantial adverse effects on special-status terrestrial wildlife species due to increased noise and human presence.	LTS	None required	LTS
BIO-5: Cause substantial adverse effects on riparian habitat, other sensitive natural communities, or federally protected wetlands.	LTS	None required	LTS
BIO-6: Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or wildlife corridor, or impede the use of native wildlife nursery sites.	LTS	None required	LTS
BIO-7: Conflict with local policies or ordinances protecting biological resources.	NI	None required	NI
BIO-8: Conflict with applicable habitat conservation plans or natural community conservation plans.	LTS	None required	LTS
Energy Use and Greenhouse Gas Emissions			
GHG-1: Potential for cannabis business operations to generate GHG emissions, either directly or indirectly, that may have a significant impact on the environment conflict with an applicable plan, policy, or regulation adopted to reduce the emissions of GHGs, result in wasteful, inefficient, and unnecessary consumption of energy, or cause a substantial increase in energy demand and the need for additional energy resources.	LTS	None required	LTS
Hazards, Hazardous Materials, and Human Health			
HAZ-1: Release hazardous materials from routine transport, use, and disposal.	LTS	None required	LTS
HAZ-2: Create a significant hazard through release of hazardous materials from upset or accident conditions.	LTS	None required	LTS
HAZ-3: Emit hazardous emissions or materials within 0.25 mile of a school.	LTS	None required	LTS
HAZ-4: Locate project activities on a hazardous materials site.	LTS	None required	LTS

Impact	Significance Before Mitigation	Mitigation Measures	Significance After Mitigation
HAZ-5: Locate project activities near an airport or private airstrip such as to increase hazards.	NI	None required	NI
HAZ-6: Expose people or structures to substantial risk of loss from wildfire.	LTS	None required	LTS
Noise			
NOI-1: Expose persons to or generate noise levels in excess of applicable noise thresholds or standards and/or cause a substantial temporary or permanent increase in ambient noise levels in the vicinity of a Proposed Program activity above levels existing without the Proposed Program.	LTS	None required	LTS
NOI-2: Expose persons to or generate excessive groundborne vibration or groundborne noise levels.	LTS	None required	LTS
NOI-3: Expose people or residences to excessive noise levels in the vicinity of a private airstrip, within an airport land use plan or, where such a plan has not been adopted, within 2 miles of a public airport or public use airport.	LTS	None required	LTS
Public Services			
PS-1: Cause a substantial adverse impact related to police protection services.	LTS	None required	LTS
PS-2: Cause a substantial adverse impact related to fire protection services.	LTS	None required	LTS
PS-3: Cause a substantial adverse impact related to schools.	LTS	None required	LTS
PS-4: Cause a substantial adverse impact related to parks or other public services.	LTS	None required	LTS
Transportation and Traffic			
TRA-1: Conflict with circulation plans, ordinances, or policies.	LTS	None required	LTS
TRA-2: Conflict with congestion management programs.	LTS	None required	LTS

Impact	Significance Before Mitigation	Mitigation Measures	Significance After Mitigation
TRA-3: Result in a change to air traffic patterns.	NI	None required	NI
TRA-4: Increase hazards due to a design feature or incompatible uses.	LTS	None required	LTS
TRA-5: Result in effects on emergency access.	LTS	None required	LTS
TRA-6: Result in effects related to public transit, bicycle, or pedestrian facilities.	LTS	None required	LTS

1 **Notes:** LTS = less than significant; NI = no impact